

Inheritance and Estate Planning in Estonia

17th November 2022

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Cognito Support

UK Inheritance Law
Overview



Principle Taxes to Consider

Inheritance Tax (IHT):

- Nil rate band.
- Transfers between spouses.
- Taper Relief.
- Property Exemption.
- Chattels Exemptions.
- Gift allowance.

Capital Gains (CGT):

- Only on 'Chargeable' Assets.
- Acquisition and Disposal.
- Free at death uplift.
- Principle residence exemption.

Inheritance Tax



- Charged at 40%.
- Nil rate band of £325,000.
- Can be combined with spouse for a total of £650,000.
- Only charged on gifts less than 7 years old.
- Taper Relief is Available.
- Business Relief.
- Residence nil rate band up to £175,000 more.




Capital Gains Tax

- Dependent on Tax Band but between 10-28%.
- Calculated in the difference in acquisition cost and disposal.
- Can be offset against losses.
- Normal income tax annual allowances apply.
- Principle residence exemption.
- Death provides a CGT-free evaluation of assets.
- Inter-spouse transferred allowed.
- Other exemptions available, such as entrepreneur and investors relief.



Key Takeaways

- Financial Planning is essential to limit tax burden.
- Timing is important when looking at gifts and release of assets.
- Risk of market fluctuation when waiting for shares and other chargeable assets to be given at death.
- The system encourages a strong focus on property and the family home and other property.



Inheritance, old age planning and taxation in Estonia

Kärt Anna Maire Kelder

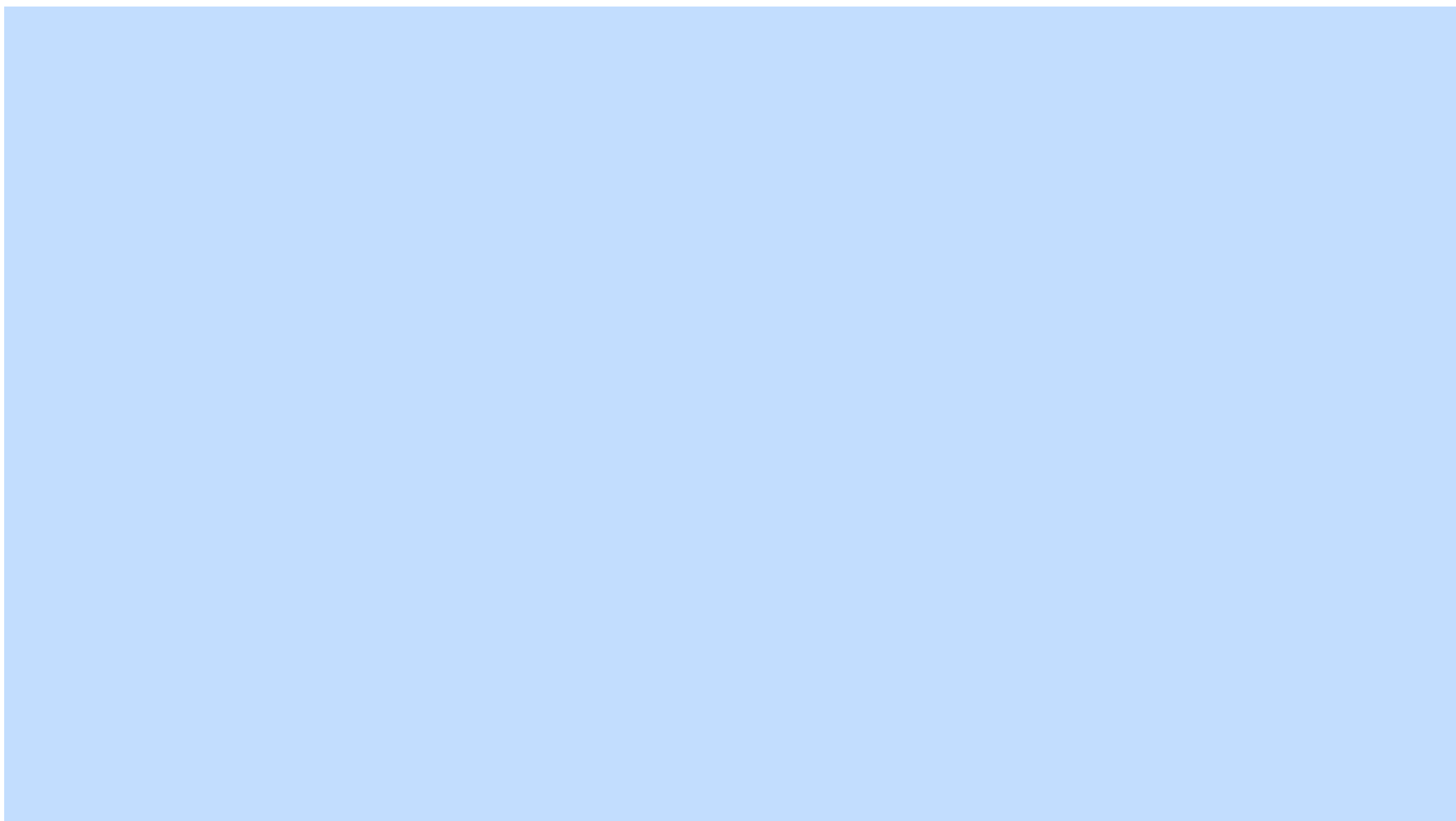
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Tallinn

17 November 2022

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Agenda

Inheritance law, Polina Tšernjak

- ❖ *overview of the Estonian inheritance legislation, including tax aspects and other costs*

Family law aspects relevant to inheritance, Elina Mizerova

- ❖ *overview of the matrimonial property regimes and transactions between partners (including prenuptial agreements) that can affect inheritance, including tax aspects and other costs*

Old age planning, Kärt Anna Maire Kelder


- ❖ *overview of the Estonian pension schemes, investment possibilities and tax advantages*

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**Law of Succession
of Estonia**



How is it regulated?

- Hague 1961 convention
(formal requirements of a testament)
- Private International
Law Act
(the law of the last state of residence)

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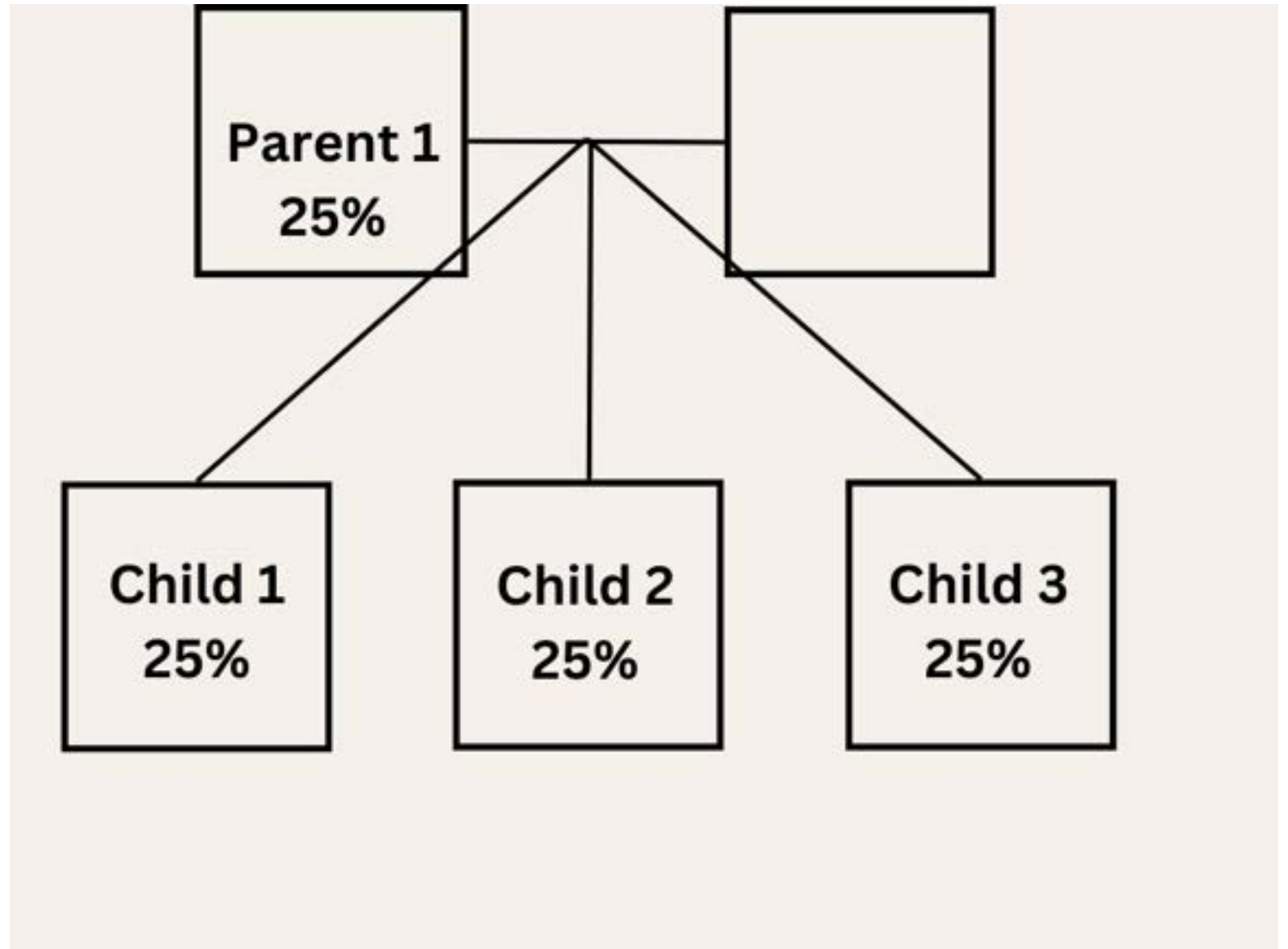
Main principles

- The transfer of the estate to a successor happens upon the death of a bequeather
- 3 months for renunciation
- succession proceedings are carried out by the Estonian notary
- The basis for succession:
 - ❖ law
 - ❖ testamentary intention
 - ❖ succession contract



Intestate Succession

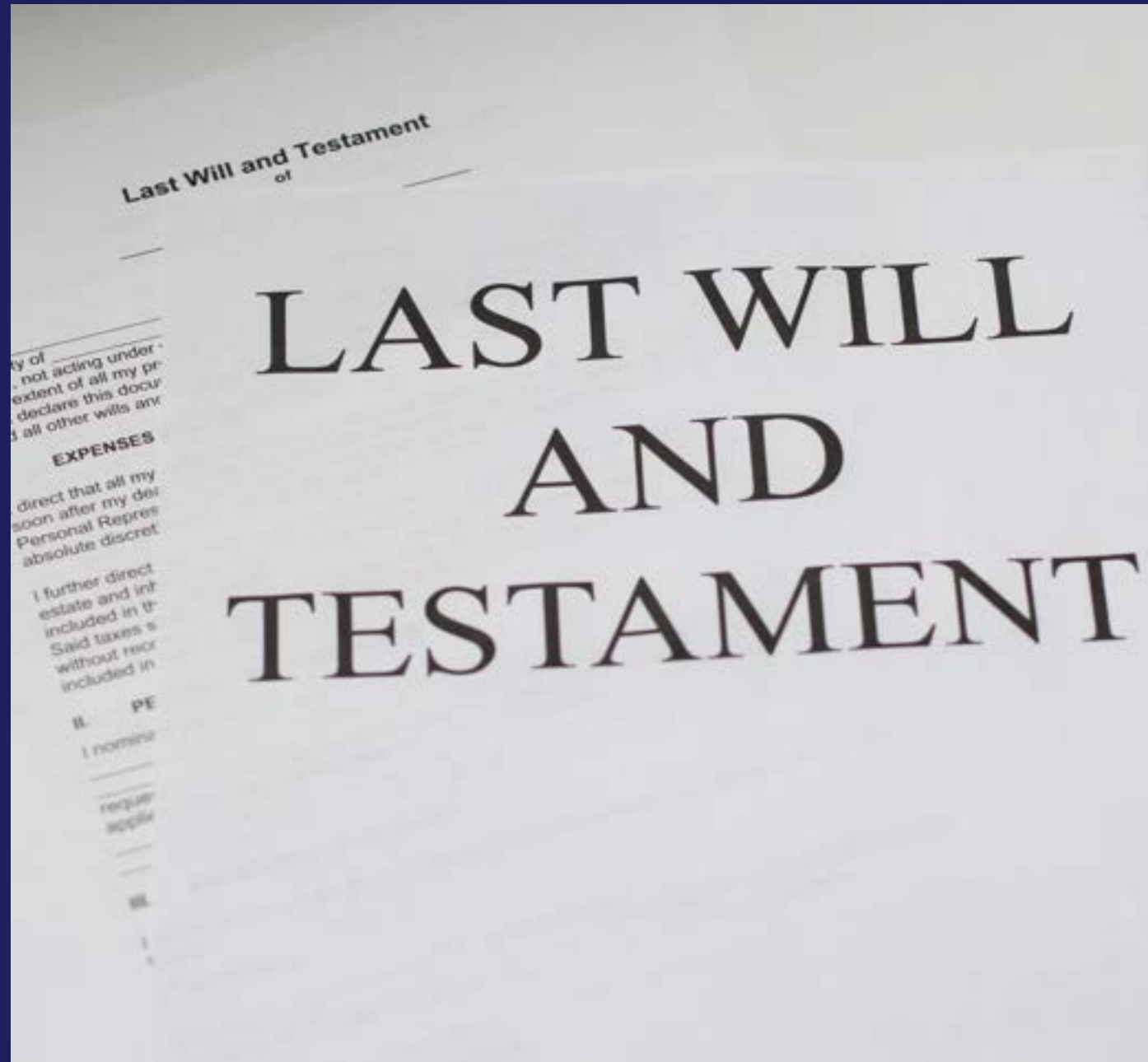
- First order successors are the descendants
- Children of a bequeather succeed in equal shares
- Second order intestate successors are the parents of the bequeather and their descendants
- Spouse no less than $\frac{1}{4}$; no less than $\frac{1}{2}$



Testament and succession contract

- A **testament** may be notarial or domestic
- Domestic testament is only valid for six months
- An individual item cannot be inherited, only a legal share (fraction) of the property
- A **succession contract** is an agreement between a bequeather and another person
- A **legacy** - a particular proprietary benefit
- A **compulsory portion** is one-half of the value of the share of an estate which a successor would have received

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Management of Estate

WHAT?

WHEN?

WHY?

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HOW?



Family law aspects relevant to inheritance



overview of the matrimonial property regimes and transactions between partners (including prenuptial agreements) that can affect inheritance, including tax aspects and other costs

Marriage

- Only between a man and a woman
- Vital statistics official, notary or ministers of religion
- Joint property
- Separate property
- Set-off regime
- Martial property contract
- The general legal consequences of a marriage shall be determined by the law of the state where the common residence of the spouses is situated.

Registered Partnership

- Gender-neutral
- Notary
- The same matrimonial property regimes as for marriage

Partnership

- Gender-neutral

Matrimonial property regimes

- **Statutory:** joint property regime
- **Agreed:** separate or set-off regime, martial property contract
- By **martial property contract** spouses may:
 - ✓ terminate the selected regime made upon marriage or on the basis of a marital property contract
 - ✓ establish another proprietary relationship prescribed by law; or
 - ✓ make alterations in the selected proprietary relationship in the cases prescribed by law
 - ✓ Declare single objects or certain type of objects to be joint property or separate property

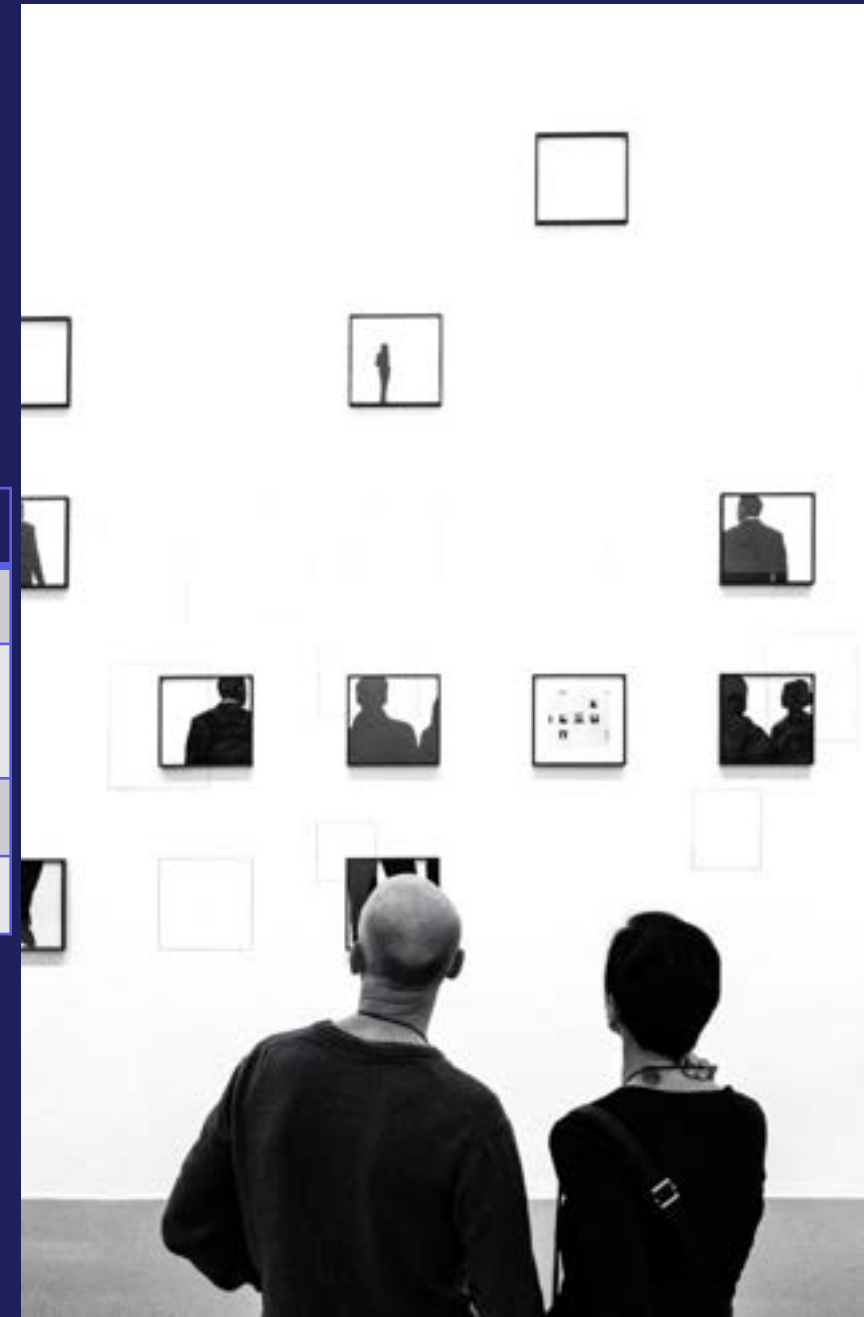


Intestate Succession

- Only a spouse (statutory)
- The spouse is above the I, II and III order

Extent of spouse's inheritance right			
	The amount	PS	PR of use
I order	Proportionally with kids, min 1/4	No	Yes
II order	1/2	Yes	Yes
III order	The entire estate	No	No

- In addition to the spouse's statutory share: personal right of use and preferential share



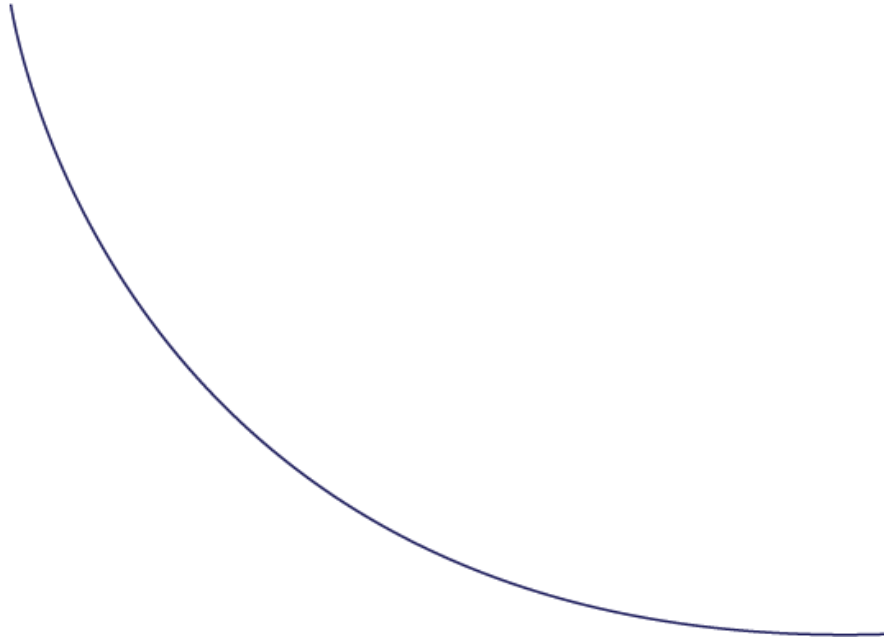
Can I disinherit a spouse by testament?

Can I sign away a particular movable/immovable property to a spouse?

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Mutual will of spouses

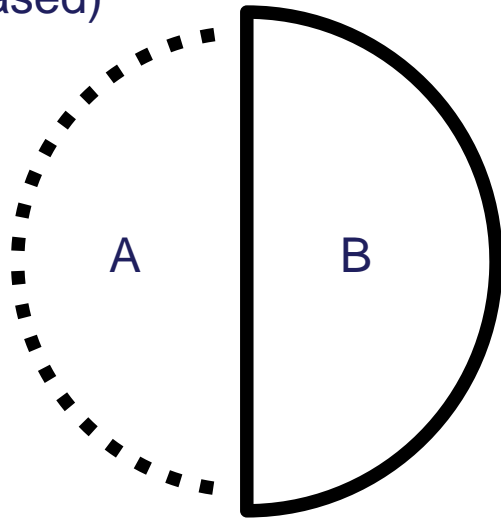


is a will made jointly by the spouses in which they mutually nominate one another as his or her successor or make other dispositions of the estate in the event of his or her death

The composition of the estate: joint property

S1
(deceased)

S2



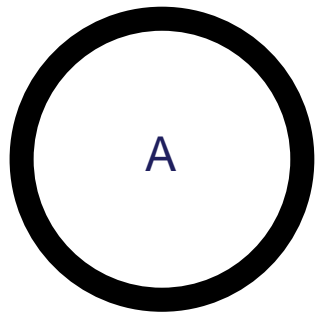
The estate = A + S1 separate property

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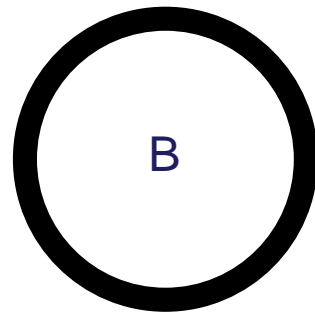


The composition of the estate: separate property

S1
(deceased)



S2



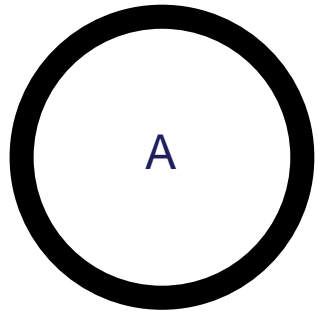
The estate = A

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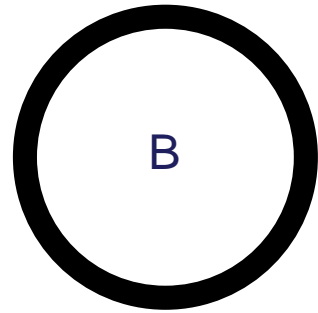


The composition of the estate: set-off regime

S1
(deceased)



S2



The estate = A (+ S1 set-off claim against S2)

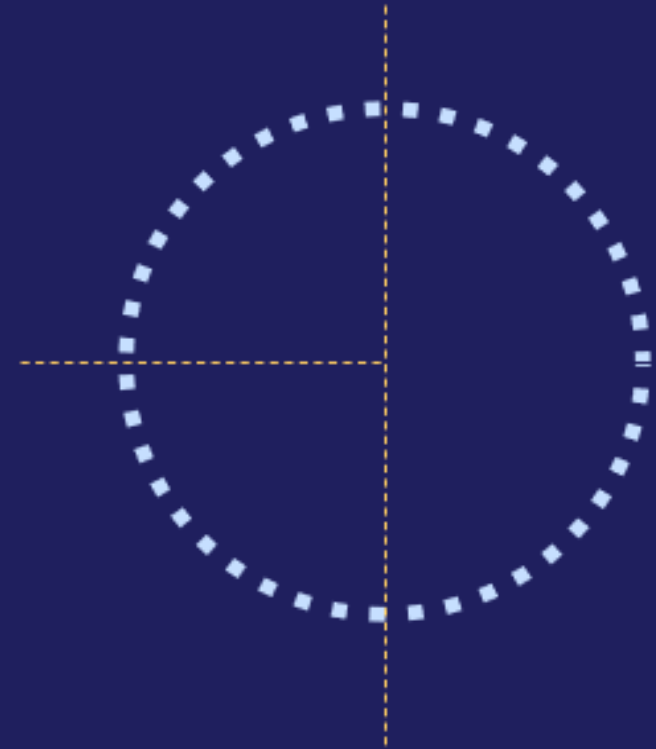
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Division of the estate

- Co-successors
- Legal share in the community of the estate
- Division of the estate

Community of the estate



Relevant aspects of taxation

- Estonian law
- Double tax treaty between Estonia and UK
- Natural persons

Estonian law

- A natural person is a resident if their place of residence is in Estonia or if they stay in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months.
- A person shall be deemed to be a resident as of the date of his or her arrival in Estonia.
- A resident natural person shall pay income tax on all income derived by him or her in Estonia and outside Estonia.



Estonian law

- **Income tax is charged** on income from all sources of income in Estonia and outside Estonia, including:
 - 1) income from employment;
 - 2) business income;
 - 3) gains from transfer of property;
 - 4) rent and royalties;
 - 5) interest;
 - 6) dividends;
 - 7) pensions, scholarships and grants, benefits, awards and gambling winnings;
 - 8) insurance indemnities and payments from pension funds;
 - 9) income of a legal person located in a non-cooperative jurisdiction for tax purposes.



Tax exemption

Income tax is not charged for example on:

- 1) accepted estate;
- 2) income from the transfer of movable in personal use.



UK Estonia double tax treaty

- Residents of a respective state are the natural persons who have a **place of living or place of residency** in that state.
- If the natural person is a resident in **both countries** their residency is determined by the:
 - a) place of permanent living;
 - b) state of personal and economic ties or habitual abode;
 - c) if habitual abode or permanent residency can't be determined then a state where he spends more time;
 - d) citizenship;
 - e) mutual agreement between the tax authorities.

Principal tax allocation according to the treaty

- **Real estate** is taxable in the state where the real estate is located.
- **Dividends** received from a UK company and which are payable from the taxable profits in the UK are tax exempt in Estonia.
- **Interest** received from the UK can be taxable in Estonia. Income tax paid in the UK from the interest is deductible from the Estonian income tax (currently 20%).
- **Royalties** received from the UK will be taxable in Estonia. Any income tax withheld on royalties in the UK can be deductible from Estonian income tax.
- **Management board fees** will be taxable in the state where the company is located.
- **Pensions and annuities** shall be taxable only in the state of residency. **Exclusion:** the pensions paid by the **state or municipal service**, unless the recipient is an Estonian citizen and resident.

Old age planning



overview of the Estonian pension schemes, investment possibilities and tax advantages

Types of pension

- **State pension - I pillar**
- **Funded pension - II pillar**
- **Supplementary funded pension - III pillar**



State pension

- Pensions are regulated by the State Pension Insurance Act.
- **Old-age pension** – a person has reached the age of old-age pension, at least a 15-year pension qualifying period in Estonia. The employer has paid social tax.
- **Survivor's pension** – for qualifying individuals in need.
- **National pension** – the person has reached the age of old-age pension, but has not worked for a sufficient number of years, has lived at least 5 years in Estonia before applying, and does not receive a pension from another state.
- **Special pension of a profession** - policemen, judges, state controllers, etc.

Funded pension

- **Funded pension:** the employee pays 2% of their gross salary into a pension fund and 4% from the social tax is added thereto by the state.
- Joining the scheme is no longer mandatory and it is possible to terminate the payments.
- **Supplementary funded pension:** those who have joined are free to change and determine the payments.
- Payments to the funded pension scheme are subject to a 20% income tax reduction on the down payments per year but limited to 15% of the gross salary or 6000 euros per year.

Taxation of pensions

New: starting from 2023 the basic exemption during the pensionable age is a fixed amount - 704 euros per month.

- Amounts exceeding the tax-free income; one-time payment from the II pillar (including when terminating the payments) to the beneficiary or their heir; and payment to the beneficiary or their heir from the III pillar before reaching the age of old-age pension are taxed with 20% IT.
- Pension paid to a resident of Estonia will be taxed in Estonia (UK-Estonia double tax treaty).



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